

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10135R

Parcel No. 102/02851-560-000

Terry Pollard,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 29, 2020. Terry Pollard was self-represented. Assistant Polk County Attorney Dominic Anania represented the Board of Review.

Terry and Diana Pollard own a residential property located at 3355 Ridgeview Drive, Des Moines, Iowa. The property's January 1, 2019, assessment was set at \$266,600, allocated as \$50,600 in land value and \$216,000 in dwelling value. (Ex. A).

Terry Pollard petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). (Ex. C). The Board of Review denied his petition. (Ex. B).

Pollard appealed to PAAB reasserting his claim.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a split-level home built in 2005. It has 2006 square feet of gross living area, with 442 square feet of average-plus quality basement finish, an enclosed porch, an open porch, and a patio. It also has an attached 728-square-foot, three-car garage. It is listed in normal condition with good-quality construction (grade 3-10). The site is 0.234 acres in the Easter Lake area. (Ex. A).

Pollard purchased the property in 2016 for \$235,000. (Ex. A). Since that time he believes there is no consistency in how the property has been assessed because of the fluctuation between the land and dwelling value allocations. Pollard's main focus is with the value of the land as he believes it is being used to inflate the total assessment without any basis. The assessed land value increased \$4,000 since the last assessment and the dwelling value increased \$9,600. (Ex. A).

Pollard listed the subject property's land and building valuations, since 2015, which are depicted in the following table. (Appeal from Board of Review Action; Ex. A).

Year	Land	Dwelling	Total Assessment
2015	\$35,100	\$224,500	\$259,600
2016	Not Reported	\$224,500	Unknown
2017	Not Reported	\$206,400	Unknown
2018	\$46,600	\$206,400	\$253,000
2019	\$50,600	\$216,000	\$266,600

On his petition to the Board of Review, Pollard listed three homes he believes demonstrate his assessment is not equitable. PAAB took judicial notice of the property record cards and cost sheets for each property, which are summarized in the following table. (Exs. 1-3).

Address	Land Size	Grade	Gross Living Area (SF)	Garage area (SF)	Basement Finish (SF)	Neighborhood/Pocket	Land Value	Dwelling Value	2019 Assessed Value
Subject	0.234	3-10	2006	728	442 A+	DM97/F	\$50,600	\$216,000	\$266,600
1 – 2806 E Diehl Ave	0.172	3-10	1454	400	0	DM97/C	\$39,500	\$150,100	\$189,600
2 – 5125 SE 27th St	0.249	4+05	1848	480	0	DM97/C	\$45,200	\$163,200	\$208,400
3 – 5731 SE 34th St	0.214	4+10	1821	550	0	DM97/C	\$43,600	\$149,500	\$193,100

All of the homes are similar in design and age as the subject. Pollard asserts these are all in his Easter Lake area. The subject property is the largest home, the only with basement finish, and has the largest garage. Pollard's basement finish adds \$12,199 to the cost-new of his property; the garage adds \$22,888. (Ex. A). Additionally, his home is the only property with an enclosed porch which adds \$11,420 to its cost new. (Exs. A, & 1-3).

Comparables 2 and 3 have higher grades meaning they are lower in construction quality than the subject. (Exs. 2-3). Comparables 1 and 3 have smaller lots than the subject, with assessed land values of \$39,500 and \$45,200 respectively. (Exs. 1 & 3).

Comparable 1 is the only recent sale; it sold in 2018 for \$184,900, approximately \$5,000 less than its 2019 assessment. (Ex. 1). The assessment to sale price ratio for this property is 1.03, suggesting it is assessed for roughly 3% more than its market value.

Chief Deputy Polk County Assessor Amy Rasmussen testified for the Board of Review. She noted the above differences between the subject property and Pollard's comparables would result in differing assessed values. Most notably she testified none of the comparables are in the subject's "neighborhood pocket," DM97/F, as identified by the Assessor's Office. Rather, all of Pollard's comparables are located in Pocket C. Rasmussen stated each neighborhood in the County has its own land cost tables and different Pockets will not carry the same values. She testified Polk County residential land was revalued in 2017. In Pocket F, where the subject property is located, land values saw an increase of approximately 43% from the 2015 to 2019 assessment years.

To demonstrate this difference in valuation, Rasmussen pointed to four properties immediately adjacent to the subject property, all located in Pocket F. PAAB took judicial notice of the property record cards and costs sheets for these properties which are summarized in the following table. (Exs. D-G).

Address	Site Size (Acres)	Neighborhood/ Pocket	2015 Land Value	2019 Land Value	2019 Total Assessed Value	% increase (rounded)
Subject	0.234	DM97/F	\$35,100	\$50,600	\$266,600	44%
D – 4201 Lakewood Ln	0.368	DM97/F	\$44,100	\$63,600	\$327,000	44%
E – 3359 Ridgeview Dr	0.231	DM97/F	\$34,700	\$50,000	\$252,200	44%
F – 3363 Ridgeview Dr	0.230	DM97/F	\$34,600	\$49,900	\$224,900	44%
G- 3367 Ridgeview Dr	0.302	DM97/F	\$42,200	\$60,800	\$224,200	44%

While the improvements of these properties are different in style and size from the subject, they all have similar year built, grade, and site size to the subject. The assessed land values are in line with the subject's land assessment. Additionally, the total assessed values increased similarly to the subject's total assessment increase. Typically this type of analysis is not appropriate in an equity analysis. We assume the

Board of Review offered the evidence as a way of explanation to Pollard regarding its land valuation method.

Analysis & Conclusions of Law

Pollard contends the subject property is inequitably assessed. § 441.37(1)(a)(1). He bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Pollard believes the fluctuation of his land value shows there is no reasonable basis for his assessment. Although he focuses primarily on this allocation, the Iowa Courts have concluded the “ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable.” *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956); *White v. Bd. of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Thus, while Pollard’s argument is generally focused on his land value, our analysis of the claim must focus on the subject property’s total value.

Pollard offered evidence of properties he believed similar to his to show a non-uniform assessment of land. However, the Board of Review described the method it applied to land valuations which is guided by cost tables for each neighborhood throughout the county. Based on the evidence in the record, Pollard’s land has been valued like his neighbors in Pocket F, whereas his comparables are located in Pocket C further from his property.

Moreover, all of Pollard’s comparables have less gross living area, lack any basement finish, and lack other amenities that his property has such as an enclosed porch. They also have smaller garages. These differences explain their lower assessed values compared to his property.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133

N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Pollard submitted three properties he believes support his claim, but only one sold in 2018. While this one sale suggests its assessment is for slightly more than its market value, more than one comparable sale must be analyzed to prove inequity. *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 *4 (Iowa Ct. App. Aug. 7, 2019). Moreover, a showing of the subject's actual value is also required. The subject property did not recently sell, nor did Pollard offer evidence of its January 1, 2019 market value. Accordingly, the *Maxwell* test cannot be completed.

Viewing the record as a whole, we conclude that Pollard failed to show his property is inequitably assessed.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

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Polk County Board of Review by eFile